

REMARKS

Claims 2 and 23 have been rewritten in independent form and are otherwise essentially unchanged by the amendment herein.

The Examiner objected to the drawings.

The Examiner indicated that claims 11-21, 32-42, and 55-67 are allowed. Applicants gratefully acknowledge the Examiner's indication of allowed subject matter.

The Examiner objected to claims 4-7, 9-10, 25-28, 30-31, and 47-54 as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicants gratefully acknowledge the Examiner's indication of allowable subject matter.

Applicants have rewritten claim 4 in independent form to include all of the limitations of claim 1, and also to include claim 7 within a Markush group format.

Applicants have rewritten claim 25 in independent form to include all of the limitations of claims 22 and 23, and also to include claim 28 within a Markush group format.

Applicants have rewritten claim 48 in independent form to include all of the limitations of claim 43 and also to include claim 51 within a Markush group format.

Applicants have also rewritten claims 47 and 52 in independent form, each including all of the limitations of claim 43.

The Examiner rejected claims 1-3, 8, 22-24, 29 and 43-46 under 35 U.S.C. §102(e) as allegedly being anticipated by Tam (US 6,622,172).

Applicants respectfully traverse the drawings objections and the §102 rejections with the following arguments.

Drawings Objections

The Examiner objected to the drawings, alleging that “there are no figure numbers 1 and 2 labeled on the drawing sheets submitted on April 25, 2001”. In response, Applicants respectively contend that the drawings Replacement Sheets submitted herewith include “FIG. 1” and “FIG. 2” on Sheet 1 and Sheet 2, respectively.

The Examiner objected to the substituted drawings submitted on July 11, 2001, alleging that: “they include the following reference characters) not mentioned in the description: Figures 1-3 are not correctly described in the specification. Figures 4-6 are not even mentioned anywhere in the specification.” In response, Applicants respectively contend that the drawings Replacement Sheets submitted herewith correctly represent FIGS. 1-3 as described in the specification, and the Replacement Sheets submitted herewith do not include FIGS. 4-6.

The drawings Replacement Sheets do not include new matter.

35 U.S.C. §102

The Examiner rejected claims 1-3, 8, 22-24, 29 and 43-46 under 35 U.S.C. §102(e) as allegedly being anticipated by Tam (US 6,622,172).

Since Applicants have canceled claims 1, 22, and 43, the rejection of claims 1, 22, and 43 under 35 U.S.C. §102(e) is moot.

Since claims 44-46 have been amended to depend from allowable claim 47, the rejection of claims 44-46 under 35 U.S.C. §102(e) is moot.

Applicants respectfully contend that claims 2 and 23 do not anticipate claims 2 and 23, because Tam does not teach each and every feature of claims 2 and 23.

As a first example of why Tam does not teach each and every feature of claims 2 and 23, Tam does not teach the feature: “wherein the acknowledgment adjuster: monitors whether an acknowledgment (ACK) was not sent during a predetermined time period after a first packet was received”.

The Examiner argues: “Regarding claim 2, 23 Tam disclosed the acknowledgment adjuster and the method, monitoring whether an ACK was not sent during a pre-determined time period after a first packet was received (See column 10, lines 18-29).”

In response, Applicants cannot find the preceding feature of claims 2 and 23 in Tam, col. 10, lines 18-29. The only monitoring that appears to be disclosed in Tam, col. 10, lines 18-29 is a monitoring of the sender’s computer congestion window size. Applicants contend that one cannot

deduce “whether an ACK was not sent during a pre-determined time period after a first packet was received” from knowledge of only the congestion window size. Therefore, Tam does not teach the preceding feature of claims 2 and 23. Moreover, Tam does not disclose a method or algorithm for deducing “whether an ACK was not sent during a pre-determined time period after a first packet was received” from knowledge of only the congestion window size. Thus, Tam does enable the preceding feature of claims 2 and 23, and Tam is therefore a non-enabling reference.

As a second example of why Tam does not teach each and every feature of claims 2 and 23, Tam does not teach the feature: ““wherein the acknowledgment adjuster ... sends an ACK after each received packet if an ACK was not sent during a predetermined time period after a first packet was received.””

The Examiner argues: “Regarding claim 2, 23 Tam disclosed ... sending an ACK after each received packet if an ACK was not sent during a predetermined period (See column 10, lines 21-25).”

In response, Applicants note that Tam, col. 10, lines 21-25 recites: “If there is an indication that the sender's computer congestion window size is small, the receiver's computer must transmit an ACK for every DAT received from the sender's computer to build up the sender's computer congestion window size.” Therefore, Tam, col. 10, lines 21-25 teaches sending an ACK after each received packet “[i]f there is an indication that the sender's computer congestion window size is small” and not “if an ACK was not sent during a predetermined time period after a first packet was received” as required by claims 2 and 23. Therefore, Tam does not teach the

preceding feature of claims 2 and 23.

Based on the preceding arguments, Applicants respectfully maintain that Tam does not anticipate claims 2 and 23, and that claims 2 and 23 are in condition for allowance. Since claims 3 and 8 depend from claim 2, Applicants contend that claims 3 and 8 are likewise in condition for allowance. Since claims 24 and 29 depend from claim 23, Applicants contend that claims 24 and 29 are likewise in condition for allowance.

CONCLUSION

Based on the preceding arguments, Applicants respectfully believe that all pending claims and the entire application meet the acceptance criteria for allowance and therefore request favorable action. If the Examiner believes that anything further would be helpful to place the application in better condition for allowance, Applicants invites the Examiner to contact Applicants' representative at the telephone number listed below. The Director is hereby authorized to charge and/or credit Deposit Account No. 09-0465.

Date: 02/15/2005

Jack P. Friedman
Jack P. Friedman
Registration No. 44,688

Schmeiser, Olsen & Watts
3 Lear Jet Lane, Suite 201
Latham, New York 12110
(518) 220-1850

In the Drawings:

Please enter Replacement Sheets for sheets 1-3 of the drawings.